

# **DEPARTMENT OF ATTORNEY GENERAL**

## **ACCESS TO PUBLIC RECORDS ACT**

### **R.I. GEN. LAWS § 38-2-1 ET SEQ.**

The Department of Attorney General is committed to providing the public with access to public records, while protecting from disclosure information about individuals maintained that would constitute an unwarranted invasion of personal privacy. R.I. Gen. Laws § 38-2-1. The Department of Attorney General provides numerous public documents to the public, media and attorneys everyday in the ordinary course of business. However, unless a document is readily available, the Department of the Attorney General requires a written request. You may use the attached form.

Pursuant to R.I. Gen. Laws § 38-2-3(c), the Department of Attorney General has established the following procedure regarding access to public records:

1. Please inform the receptionist at the front desk that you wish to make a request for public records. Special Assistant Attorney General Michael W. Field is the Public Records Officer for the Department of Attorney General (274-4400 ext. 2380). The hours for the Records Department are 9:00 to 5:00.
2. The receptionist will provide you with a form to complete, which lets this Department know the precise documents you seek and assists us in processing your request in an expeditious manner.
3. If the records are public and readily available, the Department of Attorney General will be more than happy to provide them. However, there are times/circumstances when the records will not be available at the time that you make the request and/or this Department will have to review the record to determine whether it constitutes a public record. If the records are not readily available, they can either be mailed to you or you can pick them up at a later date. The Access to Public Records Act grants a public body ten (10) business days to respond to your request. R.I. Gen. Laws § 38-2-7(a). The Access to Public Records Act further provides that “for good cause, this limit may be extended for a period not to exceed thirty (30) business days.” We thank you in advance for your understanding if it is necessary, for good cause, to request this extension. Improper release of certain information could compromise the civil rights or personal safety of your fellow citizens, and we must review documents to prevent such harm.
4. Costs. The Access to Public Records Act allows a citizen the opportunity to inspect and/or to copy public records. The cost per copied page of written public documents will be \$.15 for documents copyable on common business or legal size paper. You may elect to obtain public records in any and all media in which we are capable of providing them. The Access to Public Records Act permits a charge for search and retrieval of documents not to exceed fifteen (\$15.00) per hour, with no charge for the first hour. If your request requires a charge to be assessed, the Department of Attorney General will provide you with an estimate. Upon a request, we will provide a detailed itemization of the costs

charged for search and retrieval.

5. Public Records. A “public record” is defined as “documents, papers, ...or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Specifically, with respect to police records, the Access to Public Records Act deems public “[r]ecords relating to the management and direction of law enforcement agency and records or reports reflecting the initial arrest of an adult and the charge or charges brought against an adult.” R.I. Gen. Laws § 38-2-2(4)(i)(D).
6. Redaction. Although a document may constitute a public record, there may be some information contained on the document that may be redacted/deleted as it is exempt from disclosure under R.I. Gen. Laws Section §38-2-2. In Direct Action for Rights and Equality v. Gannon, 713 A.2d 218 (R.I. 1998) and The Rake v. Gorodetsky, 452 A.2d 1144 (R.I.1982), the Rhode Island Supreme Court held that final reports on civilian complaints of police brutality were subject to disclosure in redacted form. In addition, the Rhode Island Supreme Court has stated that “in passing the APRA, the General Assembly intended to limit access to certain documents in order to avoid disclosure of confidential information to protect individuals from invasion of their privacy.” Providence Journal Company v. Kane, 577 A.2d 661, 663 (R.I.1990). “There is no public interest to be weighed in disclosure of nonpublic records.” Id. A “balancing of interests arises only after a record has first been determined to be a public record.” Id.
7. Exemptions. The Access to Public Records Act exempts some records from public disclosure. See R.I. Gen. Laws § 38-2-2(4). The following are some explanations as to why a document or part thereof may be exempt from disclosure:
  - (A)(I) ...all personal or medical information relating to an individual in any files, — including information relating to medical or psychological facts... R.I. Gen. Laws § 38-2-2(4)(i)(A)(I);
  - (C) ... records of juvenile proceedings before the family court
  - (D) All records maintained by law enforcement agencies for criminal law enforcement and all records relating to the detection and investigation of crime, including those maintained on any individual or compiled in the course of a criminal investigation by any law enforcement agency. Provided, however, such records shall not be deemed public only to the extent that the disclosure of the records or information may (a) reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of a right to a fair trial or an impartial adjudication, (c) could constitute an unwarranted invasion of personal privacy (d.) could reasonably be expected to disclose the identity of a confidential source, including a state, local or foreign agency or authority, or private institution which furnished information on a confidential basis, or the information furnished by a confidential source, (e) would disclose techniques and procedures for law enforcement investigation or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical safety of any individual.

(S) Records, reports, opinions, information, and statements required to be kept confidential by federal law or regulation or state rule of court, law or regulation. (i.e. information regarding juveniles, etc.).

Please be advised that this is not a complete list of documents that the Access to Public Records Act exempts from disclosure. For a full list see R.I. Gen. Laws § 38-2-2.

8. Appeal of Denial. Any person or entity denied the right to inspect a record of the Department of Attorney General may petition the Attorney General for review of the determination. A final determination whether or not to allow public inspection will be made within ten (10) business days after the submission of the review petition. R.I. Gen. Laws § 38-2-8. If the Department of Attorney General makes a final determination that the record is not subject to public inspection, the person or entity seeking disclosure may file a lawsuit in the Superior Court. The Act provides that “[t]he court shall impose a civil fine not exceeding one thousand dollars (\$1,000) against a public body or official found to have committed a knowing and willful violation of this chapter, and shall award reasonable attorney fees and cost to the prevailing plaintiff. The court shall further order a public body found to have wrongfully denied access to [provide the] public records at no cost to the prevailing party; provided further, that in the event that the court, having found in favor of the defendant, finds further that the plaintiff’s case lacked a grounding in fact or in existing law or in good faith argument for the extension modification, or reversal of existing law, the court may award attorneys fees and costs to the prevailing defendant.” R.I.Gen. Laws § 38-2-9(d).

We hope this message has been of assistance.

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# DEPARTMENT OF ATTORNEY GENERAL

## REQUEST FOR RECORDS UNDER THE ACCESS TO PUBLIC RECORDS ACT

Date \_\_\_\_\_ Request Number \_\_\_\_\_

Name (optional) \_\_\_\_\_

Address (optional) \_\_\_\_\_

\_\_\_\_\_

Telephone (optional) \_\_\_\_\_

Requested Records: \_\_\_\_\_

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### Office Use

Request taken by: \_\_\_\_\_ Request Number \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Records to be available on: \_\_\_\_\_ Mail \_\_\_\_\_ Pick Up \_\_\_\_\_

Records provided: \_\_\_\_\_

Costs: \_\_\_\_\_ copies \_\_\_\_\_ search and retrieval

***Forward this Document to the Public Records Office***

\_\_\_\_\_

\_\_\_\_\_

### Department of Attorney General - Access to Public Records Request Receipt

If you desire to pick up the records, they will be available on \_\_\_\_\_ at the front desk. If, after review of your request, the Department determines that the requested records are exempt from disclosure for a reason set forth in R.I. Gen. Laws § 38-2-2(4)(i)(A) through (W), the Department reserves its right to claim such exemption.

Note: If you chose to pick up the records, but did not include identifying information on this form (name, etc.), please inform the receptionist at the front desk of the date you made the request, records requested and request number.

Thank you.

# **DEPARTMENT OF ATTORNEY GENERAL**

## **PUBLIC RECORDS REQUEST**

The Department of Attorney General has instituted the following procedure to help you obtain public records.

1. The Public Records Officer is Special Assistant Attorney General Michael W. Field, 274-4400 ext. 2380.
2. The regular business hours of the Records Department are 9:00 a.m. to 5:00 p.m. If you come in after regular business hours, please complete the Public Records Request Form at the front desk and it will be given to the Public Records Officer the following day.
3. The Department may ask you for identification, or for the reason for your request, as its regular course of business. However, you are not required to provide identification or the reason you seek the information, and your right to access public records will not depend upon providing identification or reasons.
4. In order to ensure that you are provided with the public records you seek in an expeditious manner, we ask that you complete the Public Records Request Form located at the front desk.
5. You may also obtain at the front desk a handout on the Access to Public Records Act, which summarizes the procedures and your rights to access public records.
6. There are times when the public records you seek are not available at the time of your request. Please be advised that the Access to Public Records Act allows a public body ten (10) business days to respond. We appreciate your understanding and patience.
7. If you feel that you have been denied access to public records, you have the right to file a review petition with the Attorney General. If you are still not satisfied, you may file a lawsuit in Superior Court.
8. The Department of Attorney General is committed to providing you with public records in an expeditious and courteous manner.